AMENDMENTS TO THE DRAWINGS

Attached please find replacement drawings which are formal.

REMARKS/ARGUMENTS

The Office Action mailed August 8, 2007 has been received and its content carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-21 are pending. Claims 1 through 4, 7, 8, 12, 16 through 18, and 21 are amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application.

I. DRAWING

The Examiner objected to the drawings because the drawings are hand drawn. The drawings have been formalized accordingly.

II. CLAIM REJECTIONS - 35 U.S.C. § 112

1. Claim 17 was rejected under 35 U.S.C. §112. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is using a Trademarked Item in the claim.

2. Claim 17 has been updated accordingly.

III. CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,564,120 to Richard et al. (Richard). The Applicant respectfully traverses.

No claim is anticipated under 35 U.S.C. §102 (b) unless all of the elements are found in exactly the same situation and united in the same way in a single prior art reference. As mentioned in the **MPEP §2131**, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Every element must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 9 USPQ2d 1913, 1920 (CAFC 1989). The identical invention must be shown in as complete detail as is contained in the patent claim. *Id.*, "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson,* 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970), and MPEP 2143.03.

The Examiner states that Richard et al. in at least Column 5, lines 42-54 teaches a tracking device for monitoring the presence and temperature of an item; and a processing device that reads the tracking data from the tracking device.

However, respectfully, as mentioned in col. 5, lines 42-54, it is not the temperatures of the items in the container that are being tracked for temperature, but the modules 36 as a whole. As Richard states the temperature sensors monitor the modules 36 and the storage containers 22, but there is no mention of the items in the containers. The ambient air temperature can always be different than the temperature of the items that a container has, and therefore, the monitor of the temperature is not disclosed.

Further, there is no disclosure of monitoring the actual presence of the item. It states, that the contents of the storage receptacles are registered, but there is no indication, that after

registering, that there is any tracking of the items. The present invention is, however, monitoring in real-time the location of the items in the containers.

The amendment to claim 1 is supported for example by paragraph 24.

IV. REJECTION OF CLAIMS (35 U.S.C. § 103)

According to MPEP 706.02(j), the following establishes a *prima facie* case of obviousness under 35 U.S.C. §103:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A. Claims 2-15 are rejected under *35* U.S.C. 103(a) as being unpatentable over Richard et al., US 6,564,120 B1. The Applicant respectfully traverses.

With regard to claims 2-15 the Examiner states that Richard et al. teaches in at least Column *2,* lines *25-28* discloses a computer operatively connected to a robot mechanism for controlling movement and access operation and for registering the contents of the storage receptacles. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that a computer is a data storage device because it has memory for storing

tracking data and it is electrically linked to the processing device which is the CPU contained within the computer which is then connected to and controls the robot mechanism.

However, as shown above, the present invention does real time monitoring of the items status, while Richard only registers the item when placed in the container. Further, the temperature monitoring in Richard is with regard to the container, rather than the item itself as the claim states.

The amended claims are additionally supported for example by paragraphs 15, 46, 48, 50, 53, 56, 62, 69, and 78, and as shown above are not obvious based on the teaches of Richard or Nicotera as seen below.

B. Claims 17-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Richard in view of U.S. Patent 6,421,586 to Nicotera (Nicotera).

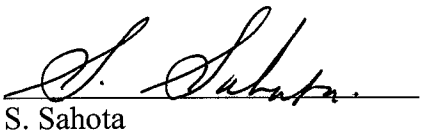
Again, Richard fails to teach or suggest the real time monitoring of the items itself, and the temperature of the items themselves. Nicotera, provides no additional teach with that respect.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. If it is believed that the application is not in condition for allowance, the Examiner is requested to contact the undersigned attorney to expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87289.2240.

Respectfully submitted,

By: 

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